CONSCIENTIOUS OBJECTION IN THE HEALING PROFESSIONS:

A READERS' GUIDE TO THE ETHICAL AND SOCIAL ISSUES

Institutions

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While it is possible that anyone might object to participating in some form of health care, research or service on the grounds that the action would violate a deeply held belief, the most commonly discussed cases involve individuals with professional obligations; particularly, doctors, nurses, pharmacists and medical students. Institutions, particularly those with a faith-based association or heritage, sometimes express policy decisions in the terms of conscientious obligation. This section of the guide addresses the issues for institutions.

Can institutions have a moral conscience? According to Lynch, "[I]t is essential to recognize that institutions, like individuals, can truly harbor conscientious objections to various medical services." [1, p106] Wicclair argues, "It is doubtful that one can refer plausibly to the conscience of a corporation independently of the appeals to conscience of its individual members… [n]evertheless, claims can be advanced on behalf of health care institutions that bear a family resemblance to appeals to conscience by individuals and warrant substantial deference." [2, p142, 148] In other words, although it may be hard to tangibly assign conscience to institutions, but for all practical purposes, they may be considered as having a conscience either to protect or obligate them to perform a service. *In re Requena*, the New Jersey Superior Court ruled that the hospital must take responsibility in service to patient, not the professional.[3] However, Brown believes we ought to think of institutions as having conscience if we desire pluralism as a good. He writes:

> Normative pluralism requires fostering different, often competing viewpoints within a single society. This fostering aspect of normative pluralism can be achieved by letting individuals express themselves, including private religious institutions such as church communities, and through quasi-public religious institutions such as private hospitals. One such kind of religious expression is through policies adopted in line with the religious teachings of the group that runs the hospital.[4, p7]

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Pellegrino notes, “The ethical code or commitment of a specific institution is now customarily expressed in its mission statement. This is in a way the conscience of the institution.” [5, p235] If we accept this notion, then the compromise rules set out for persons smoothly translate to institutions: institutions ought to inform, refer, prevent undue burden, provide advanced notice, and perform in emergency situations. If a pharmacy, insurance company, university, or Catholic hospital objects to certain controversial services then they simply ought to follow the compromise guidelines.

Some states, however, now mandate healthcare institutions meet certain objectives such as obligating pharmacies to dispense emergency contraception. This can be problematic as Parker observes, “[A] collective can only act through its individuals. Thus, if the medical profession has an obligation to provide access to all legally permissible services but can only act to fulfill this obligation through its individual members, then those members must have some sort of obligation to ensure that patients have access to all legally permissible services. If the individuals in the collective have no obligations regarding the acts that the collective must perform in order to fulfill its obligations, then it is unclear how the collective is to act.” [6, p31]

If, for example, a pharmacy is obligated by the state to dispense emergency contraception but the pharmacist on staff refuses to dispense, what is the pharmacy to do? Is it ok for the pharmacy to fire the pharmacist in search of another? The objecting pharmacist is likely protected by various conscience clauses. In *Vandersand v. Wal-Mart stores Inc*., the District Court in Illinois dealt with regarding mandatory dispensing of Plan B under state law.[7] A pharmacist was placed on unpaid leave for refusing to provide emergency contraception because it went against his religious beliefs. Must the pharmacy hire another pharmacist? This may lead to financial burdens on the pharmacy. Lynch believes, “Employers should have no obligation to subsidize physicians’ moral beliefs by hiring or retaining doctors whose conscientious refusals would require the employer to undertake significantly burdensome accommodations. If refusing physicians are simply allowed to enter and continue in the profession, are shielded from liability when they satisfy their limited responsibilities, and are reasonably accommodated by their employers, that is sufficient.” [1, p95] The same can be said for pharmacies. The Christian Dental and Medical Associations’ Ethics Statements provides that healthcare institutions have a right not to provide services that are against their foundational beliefs. [8, p42] These institutions should however disclose which services they will not offer, but should not lose public funding.

Catholic Hospitals

Catholic hospitals require special mention. According to Pellegrino, “The ethical content of the institutional conscience of particular hospitals is well known with respect to sterilization, abortion, euthanasia, assisted suicide, contraception, and cooperation through mergers with other institutions that accept these practices.” [5, p236] In his book, Wicclair explores the controversial issues within the confines of Catholic hospitals. The preeminent cases are emergency contraception (EC), medically provided nutrition and hydration (MPNH), and abortion. He generally believes if the hospital is not willing to provide the service then the hospital ought to refer or transfer the patient. For example, Wicclair argues, “If hospitals provide information about EC but do not provide the medication, if requested, they should at least provide

information about conveniently located pharmacies that dispense it. If there are no nearby pharmacies that stock EC and are open 24/7, hospitals arguably have an obligation to stock a supply so that the medication can be given to rape victims if needed to prevent excessive inconvenience or delay." [2, p154]

Below, you will find works specific to different types of healthcare institutions and the pressing concerns within each. There is certainly some overlap. For example, both pharmacies and insurance companies are concerned with birth control. Dispensation of emergency contraception and abortifacients has become the hot-button issue for conscientious objection. A strong discussion depends upon an understanding of the medications and their effects. Herbe provides a review of the history and mechanisms of these medications. [9]

Further Readings

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